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REMARKS

Reconsideration and re-examination of this amendment is respectfully requested. The Applicant would like to thank the Examiner for the careful review and discussion of arguments in the previous response.

Rejections under 35 U.S.C. §102(e)

Claims 1 and 3 were rejected under 35 U.S.C. §102(e) as being anticipated by Rune et al.

Rune

Rune describes a method and Internet system that attempts to improve response times by automatically selecting for use a server located relatively close to a requesting host. More specifically, the Internet system can operate to select the closest server or the most appropriate server from a plurality of servers providing the same service (e.g., mirror servers) or slightly adapted variants of the same service (e.g., alternative servers) each assigned a common host name and a unique Internet protocol address. The system operates to select the unique IP address assigned to either the closes server or the server that is most appropriate. (Rune Abstract). At column 3, lines 31-33, Rune states "the most appropriate alternative server will have the smallest hop count..." Rune also states that the most appropriate can be based on a 'class name of the requesting host...' (column 3, line 38).

Thus in essence Rune describes a system which uses mirrored web sites, and selects one of the mirrored web sites based on whether the web site is either closer, has a shorter hop count, or based on the class of the host name of the requesting host.

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Applicants claim 1, as amended, now describes "...Applicant's claim 1 recites "...a plurality of network appliances that optimize the performance of domains hosted on geographically distributed, mirrored network sites, a client computer coupled to said plurality of network appliances... and a network over which said network appliances and said client computer communicate, wherein, in response to a connection request by the client to a mirrored network site, *each network appliance associated with each mirrored network site issues a response to the connection request to allow the client to connect to a mirrored network sites having an the optimal response time to said connection request wherein each mirrored network site selectively delays their respective response in accordance with a load of the associated mirrored network site ...*"

No such structure is shown or suggested in Rune. Rather, Rune describes a system in which the closest mirrored site, based on hop count, is used. Accordingly, claim 1 is patentably distinct over Rune, and it is respectfully requested that the rejection of Rune be withdrawn. Dependent claim 3 serves to further limit claim 1 and is allowable for at least the same reasons as claim 1.

Rejections under 35 U.S.C. §103

Claims 2 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rune in view of Biliris et al., U.S. Pat. No. 2002/0078233 A1.

Biliris

Biliris describes an architecture that advantageously leverages multiple content distribution networks to provide enhanced services. In Biliris, a share of content requests are served by each of a plurality of content distribution networks. (Biliris, abstract).

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Biliris states in paragraph 003:

"... It is often advantageous when distributing digital content across a packet-switched network to divide the duty of answering content requests among a plurality of geographically dispersed servers. For example, extremely popular Web sites on the Internet often provide links to "mirror" sites which replicate the content at a number of locations across the globe, some closer to the particular client requesting the content. A more recent alternative to mirroring has been the use of what are referred to in the art as "content distribution" services. Content distribution services ... dynamically redirect content requests to a cache advantageously situated closer to the client issuing the request (such architectures are referred to herein generically as "content distribution networks" or CDNs for short..."

The Examiner states that Biliris is relied upon to show communication through an authentication protocol on top of a communication protocol.

In order to support a rejection under 35 U.S.C. §103(a), every limitation in the claims should be shown or suggested by the reference. Thus, even if Biliris teaches an authentication protocol on top of a communications protocol, it fails to overcome the inadequacy of Rune with regard to the claims, in particular, Biliris, Rune and the combination thereof both fail to describe or suggest the limitation of the parent independent claim of "..., wherein each mirrored network site selectively delays their respective response in accordance with a load of the associated mirrored network site..." If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

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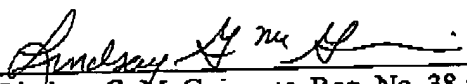
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Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date


Lindsay G. McGuinness, Reg. No. 38,549
Attorney/Agent for Applicant(s)
Steubing McGuinness & Manaras LLP
125 Nagog Park
Acton, MA 01720
(978) 264-6664

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